

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

IRIS L. MOORE

PLAINTIFF

VS.

CIVIL ACTION NO. 3:15CV232 CWR-LRA

**CAROLYN W. COLVIN,
COMMISSIONER OF SOCIAL SECURITY**

DEFENDANT

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

THIS CAUSE is before the Court *sua sponte* upon a review of the docket in this case. Plaintiff appeals from the decision of the Commissioner of Social Security denying her application for Social Security Disability Insurance Benefits, but has failed to prosecute her appeal. For the reasons stated herein, it is the recommendation of the undersigned that this case be dismissed.

The docket reflects that the Complaint was filed on March 27, 2015, and that no attempts for service of process have been made. Process must be served within 90 days, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Fed .R. Civ. P. 4(m). Pursuant to this Court's order on September 22, 2015, the Clerk mailed Plaintiff new summons forms, and Plaintiff was directed to complete and return the summons forms no later than October 2, 2015. This Court issued an Order to Show Cause on November 25, 2015, directing Plaintiff to show good cause on or before December 11, 2015, as to why service has not been completed. The order advised that failure to show cause may result in the dismissal of her case without further notice. Plaintiff has failed to show cause.

This Court has the authority to dismiss an action for failure to prosecute or to comply with any order of the court both under Fed. R. Civ. P. 41 (b) and under its inherent authority. *See McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962). The Court must be able to clear its calendars of cases that remain dormant because of the inaction or dilatoriness of the parties seeking relief, so as to achieve the orderly and expeditious disposition of cases. Such a sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the court. *Link*, 370 U.S. at 630. Plaintiff's actions also prejudice the right of the Commissioner to promptly and fully defend the final decisions of the Social Security Administration.

It is apparent that Plaintiff has lost interest in pursuing this appeal, as evidenced by her failure to execute service of process and to comply with the directives of this Court. For these reasons, it is the recommendation of the undersigned that Plaintiff notify the Court of her intent to prosecute her appeal within 10 days, or no later than December 31, 2015. Should Plaintiff fail to notify the Court, it is the recommendation of the undersigned that this cause of action be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

NOTICE OF RIGHT TO APPEAL/OBJECT

Pursuant to Rule 72(a)(3) of the Local Uniform Civil Rules of the United States District Courts for the Northern District of Mississippi and the Southern District of Mississippi, any party within 14 days after being served with a copy of this Report and

Recommendation, may serve and file written objections. Within 7 days of the service of the objection, the opposing party must either serve and file a response or notify the District Judge that he or she does not intend to respond to the objection.

The parties are hereby notified that failure to file timely written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation, shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. § 636, Fed. R. Civ. P. 72(b) (as amended, effective December 1, 2009); *Douglas v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

This the 5th day of January 2016.

/s/ Linda R. Anderson
UNITED STATES MAGISTRATE JUDGE